

OVERSIGHT HEARING ON LEGISLATIVE PROPOSALS RELATING TO
CLAIMS AGAINST THE UNITED STATES RELATED TO THE MANAGEMENT
OF INDIAN TRIBAL TRUST FUND ACCOUNTS

MS. CANTWELL. Mr. Chairman, I am pleased that we have this opportunity to hear from the witnesses testifying today to help us determine whether legislation would be an appropriate and desired course of action to address the statute of limitations that may have been triggered by reports of tribes' trust accounts released in 1996.

Mr. Chairman, I have serious concerns about the management of both tribally held and individual Indian trust accounts. The federal government has a legal responsibility to maintain these accounts accurately, and I believe that account holders should be able to hold the government accountable if this is not done.

In 1987, Congress first mandated that the Department of the Interior audit and reconcile trust fund accounts and provide these statements to account holders. Since fiscal year 1992, the appropriations acts for the Department have included requirements that tribes and individuals with trust accounts be provided with reconciled accounting statements, and, in 1994, Congress reiterated the need to give tribes this information with the passage of the Trust Fund Management Reform Act. This law required the Secretary of the Interior to supply tribes with reconciled account statements as of September 30, 1995.

Interior contracted with one public accounting firm in order to reconcile trust accounts and a second firm to verify that the reconciliation was as thorough as possible. In January 1996, each tribe was given a report of its account. However, tribes and the U.S. General Accounting Office have concerns that the 1996 reports may not provide reliable or sufficiently thorough information about the accounts. As a result, tribes cannot rest assured that these reports accurately represent the actual value in their accounts, and tribes may not have the necessary information to make informed decisions regarding whether accounts have been mismanaged and, if so, to take legal action.

Because of the doubts surrounding the sufficiency of these reports, it is uncertain whether the reports actually triggered the six-year statute of limitations for tribes to file claims against the United States. However, the Committee has been advised that the Department of Justice believes that the reports did do so. Several tribes have already filed claims because the statute of limitations, if it began to run, expired last month or will expire in the very near future.

If the government is providing tribes with inaccurate or incomplete reports of their accounts, then these reports should not work to limit tribes' recourse towards holding the government responsible for trust fund mismanagement. Moreover, it is likely in the best interests of tribes and the government alike to extend the statute of limitations specifically to allow more time to explore how these claims might be settled out of court. Bringing hundreds of cases before the courts would cost tribes and the government dearly in time and resources.

In the final days of the last session of Congress, my distinguished colleagues Senators Campbell and Inouye introduced a measure to encourage the negotiated settlement of tribal claims. This bill would extend the statute of limitations on claims against the United States relating to trust fund account mismanagement through fiscal year 2002. I am very interested in the views of today's witnesses and my colleagues on

the Committee regarding how this legislation might help efforts to resolve trust fund mismanagement.

Indeed, the daunting task of rectifying trust fund mismanagement will require the diligent participation, patience, and wisdom of the Department of the Interior, the Native American community, the courts, and Congress. We are meeting today to discuss only one facet of this complex problem, but I am interested in what Congress can do to see that the problem is addressed with consistency, efficiency, and most importantly, justice.